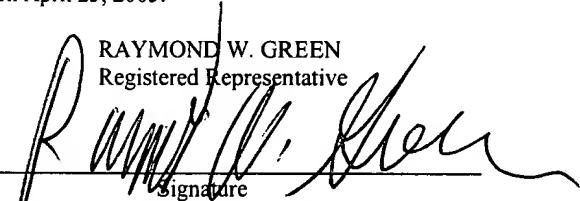




CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being transmitted by facsimile to (703) 872-9306,
Mail Stop AF,
COMMISSIONER FOR PATENTS,
P.O. Box 1450, Alexandria, VA 22313-1450,
on April 25, 2005.

RAYMOND W. GREEN
Registered Representative

Signature

Date of Signature: April 25, 2005

PATENT
BHG&L Case 8627/405

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Kieran P. J. Murphy	:	Cook Case PA-5281
		:	
Serial No.:	09/594,685	:	
		:	
Filed:	June 16, 2000	:	Group Art Unit: 3732
		:	
For:	APPARATUS FOR STRENGTHENING VERTEBRAL BODIES	:	Examiner: Eduardo C. Robert
		:	

ATTORNEY'S STATEMENT OF SUBSTANCE OF INTERVIEW

Mail Stop AF
COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Advisory Action of March 10, 2005, on April 5, 2005, the undersigned attorney filed a Request that the Examiner reconsider the denial of entry of the Amendment filed February 10, 2005. On April 11, 2005, the undersigned attorney called Examiner Eduardo C. Robert to give him a "heads up" that the April 5, 2005, Request had been filed. The courtesy of the telephone conversation is noted with appreciation.

Examiner Robert stated that a Request for Reconsideration was not a proper response to an advisory action – that the only proper responses were a notice of appeal (and a later appeal brief), an RCE, or an amendment that placed the Application in condition for allowance.

I interpreted Examiner Robert's statement (at the time)¹ as an indication that the Request for Reconsideration would be dismissed or denied because it was not a proper response to the advisory action (even in conjunction with a notice of appeal and appeal brief). So I then stated that if the Request for Reconsideration was not granted, *i.e.*, if the Amendment filed February 10, 2005, were not entered, then I intended to file a Petition Under 37 CFR 1.181, requesting entry of the last Amendment; and I asked if I should state, in the Petition, that the Request for Reconsideration was going to be denied. Examiner Robert stated that a Request for Reconsideration would be considered on its merits when received, and that he would write an Interview Summary recording the substance of our conversation. At some point, Examiner Robert also stated that the amendment was not being entered because it appears to be introducing new matter into the claims. I also asked if my filing an appeal brief and/or a Petition Under 37 CFR 1.181 would cause the Examiner any difficulty, because someone might come and remove a case file from him to enter the papers I filed. Examiner Robert said no, it would not. I stated that I would probably be filing both an appeal brief and a Petition within a few days.

On April 13, I filed an appeal brief in this Application, but I have not as yet filed a Petition Under 37 CFR 1.181 requesting that the Amendment be entered.

Also on April 13, an Examiner's Interview Summary was mailed, which was received in due course. The Examiner's Interview Summary states that Applicant is given one month in which to file a statement of the substance of the April 11, 2005, interview. Accordingly, the present Statement is filed.

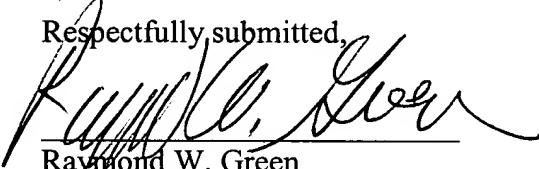
On April 21, 2005, after reviewing the April 13 Examiner's Interview Summary, I called Examiner Robert again. The courtesy of the telephone conversation is noted with appreciation.

After reminding Examiner Robert of our previous conversation, I stated that I had filed an appeal brief on April 13; but that I was holding off on filing a Petition Under 37 CFR 1.181, in the hopes that I might receive a decision on the Request for Reconsideration filed April 5, before I needed to do so. I also offered to send a copy of the Request for Reconsideration by fax. Examiner Robert stated that our Request for Reconsideration filed April 5 had not yet been

¹ After reviewing the April 13 Examiner's Interview Summary, it appears that Examiner Robert was merely warning that a Request for Reconsideration was not a *complete* proper response to an advisory action – and that the only papers that would prevent an abandonment were a notice of appeal (and a later appeal brief), an RCE, or an amendment that placed the Application in condition for allowance.

docketed to him, and he could not act on it until it was so docketed; so a faxed copy would be of no use. I mentioned that the April 13 Examiner's Interview Summary states that Applicant is given one month in which to file a statement of the substance of the April 11, 2005, interview, and stated that I intended to file such a statement.

Respectfully submitted,



Raymond W. Green
Registration No. 24,587

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April 25, 2005